IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Writ Petition No.2521 of 2006

Date of Decision: November 26, 2007

Smt.Leela Devi .....Petitioner

Versus

Haryana Vidyut Prasaran and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Rajesh Arora, Advocate for the petitioner.

Mr.Narender Hooda, Advocate for the respondents.

S. D. ANAND, J.

1. Petitioner is widow of Panju Ram, a store-mate in the employment of respondents, who died in harness on 29.12.1992. It is the own plea of the respondents (Annexure P6) and also in para 8(iii) of the written statement that though he was initially functioning as Work charge employee, his services were regularised w.e.f. 11.3.1992. The deceased had otherwise been functioning on Work charge basis, without any interruption, from 28.3.1968 upto 10.3.1992 .

2. The petitioner's claim for the grant of family pension is resisted by the respondents on the plea that he had worked only for a period of little more than nine months as a regular employee, whereas the rules require that the deceased ought to have put in one year regular service before his legal representatives become entitled to family pension.

3. A Division Bench of this Court held in Smt.Shalini Devi Vs. The Haryana Vidyut Prasaran Nigam Limited (HVPNL) and others, 2006(1) Law Herald 488 that:

> "Petitioner is held to be entitled to the grant of family pension as admissible under the rules, even if the deceased has not completed one year of continuous service – Petition allowed."

4. The learned counsel for the respondents made a bid, abortive though, to wriggle out of that judicial pronouncement by arguing that the ruling aforementioned would apply only if there was proof of the fact that the deceased had been medically examined and found fit before regularisation of his services was ordered.

5. The plea is unsustainable on the face of it in view of the conceded case of the respondents that the services of the deceased came to be regularised w.e.f. 11.3.1992. It is the own version of the respondents that an employee would come to be regularised only if he is medically examined and found fit for regularisation. If the deceased had not been medically examined and found fit for regularisation, the respondents would not have ordered the regularisation of his services. The fact that his services came to be regularised w.e.f. 11.3.1992 is ipso-facto conclusive proof of the fact that the deceased had been medically examined. Even otherwise, if the respondents were to persist in that plea, they ought to have done their home work well by ascertaining from their own record whether the deceased had been medically examined and found fit or not. Every official act is inferred to have been correctly done. It would, thus, be inferred that the regularisation of the services of the deceased had to be ordered only after he had been medically examined and found fit.

5. Even otherwise, it defies logical comprehension that the widow of a deceased-employee who gave 25 best years of his life to the respondents, should be seen craving for grant of family pension and get faced with a denial just because the period of regular service rendered by her deceased-husband fell short by little less than three months. Law and also acceptable human compassion would not countenance such an eventuality.

6. The instant case is representative of official apathy towards the unenviable woes of a hapless widow who, after losing the provider of the family, had to face a denial of the least means of subsistence for self and her children. The respondents, in a brazen display of indifference, did not find it appropriate to favourably decide upon the issue of family pension in view of the fact that the deceased-employee had been in employment for about two and half decades. The fact that an employee should be on extended uncertain lease of employment – for such a long time is equally a matter which ought to engage attention of the policy makers.

7. In the light of foregoing discussion, the petition shall stand allowed. The impugned order dated 2.1.2006 (Annexure P6) declining family pension to the petitioner shall stand quashed. The respondents are directed to sanction family pension to the petitioner w.e.f. the date of death of her husband. The petitioner should be entitled to the arrears thereof as well w.e.f. that date, with interest @ 9% per annum.

(S. D. ANAND)
JUDGE

November 26, 2007
SRM

Note: Whether referred to reporter ? Yes/No